



## Chapter 2.81

### PUBLIC CONTRACTS TO CERTAIN CONTRIBUTORS

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#### Section 2.81.010 PROHIBITION ON AWARDING PUBLIC CONTRACTS TO CERTAIN CONTRIBUTORS

##### Section 2.81.010 Prohibition on Awarding Public Contracts to Certain Contributors

A. Any other provision of law to the contrary notwithstanding, the municipality or any of its purchasing agents or agencies or those of its independent authorities, as the case may be, shall not enter into an agreement or otherwise contract to procure professional, banking, insurance coverage services or any other consulting services, from any professional business entity, if that entity has solicited or made any contribution of money, or pledge of a contribution, including in-kind contributions, to any Edison Township municipal candidate or holder of the public office having ultimate responsibility for the award of contract, or campaign committee supporting such candidate or officeholder, or to any Edison Township or Middlesex County party committee, or to any political action committee that regularly engages in the support of municipal elections and/or municipal parties (PAC) in excess of the thresholds specified in subsection (c) within one calendar year immediately preceding the date of the contract or agreement.

B. No professional business entity which enters into negotiations for, or agrees to, any contract or agreement with the municipality or any department or agency thereof or of its independent authorities for the rendition of professional, banking or insurance coverage services or any other consulting service shall solicit or make any contribution of money, or pledge of a contribution, including in-kind contributions, to any Edison Township municipal candidate or holder of the public office having ultimate responsibility for the award of the contract, or campaign committee supporting such candidate or officeholder, or to any Edison Township or Middlesex County party committee, or to any PAC that regularly engages in the support of municipal elections and/or municipal parties between the time of first communications between that business entity and the Township regarding a specific professional services agreement and the later of the termination of negotiations or the completion of the contract or agreement.

C. (i) Subject to the limitations in (ii), Any entity meeting the definition of "professional business entity" under this section may annually contribute a maximum of \$400 for any purpose to each candidate, for mayor or council, and \$500 to each Edison Township or Middlesex County party committees, or to a PAC referenced in this ordinance, without violating subsection (a) of this section. However, (ii) any entity meeting the definition of "professional business entity" under this section, including such principals, partners, and officers of the entity in the aggregate, may not annually contribute for any purpose in excess of a total of \$2,500 to: all Edison Township candidates and officeholders with ultimate responsibility for the award of the contract and all Edison Township or Middlesex County political parties and PACs referenced in this ordinance combined, without violating subsection (a) of this section.

D. For purposes of this ordinance, a "professional business entity" is an entity seeking or performing a public contract for professional, banking or insurance coverage services or any other consulting services and which may be an individual including the individual's spouse, if any, and any child living at home; a person; firm; corporation; professional corporation; partnership; organization; or

for the purpose of concealing or misrepresenting the source of the contribution; (iv) make or solicit any contribution on the condition or with the agreement that it will be contributed to campaign committee of any candidate or holder of the public office of Edison Township; (v) engage or employ a lobbyist or consultant with the intent or understanding that such lobbyist or consultant would make or solicit any contribution, which if made or solicited by the business entity itself, would subject that entity to the restrictions of this ordinance; (vi) fund contributions made by third parties, including consultants, attorneys, family members, and employees; (vii) engage in any exchange of contributions to circumvent the intent of this ordinance; or (viii) directly or indirectly, through or by any other person or means, do any act which would subject that entity to the restrictions of this ordinance.

B. Furthermore, any professional business entity who violates (A) ii-viii shall be disqualified from eligibility for future Edison Township contracts for a period of four calendar years from the date of the violation.

**Section 2.81.060 SEVERABILITY AND REPEALER**

**Section 2.81.060 Severability and Repealer**

A. If any section, subsection, sentence, clause or phrase of this ordinance if for any reason held to be unconstitutional, invalid, or unenforceable by a court of competent jurisdiction, such decision shall not affect the remaining portions of this ordinance.

B. All ordinances or parts of ordinances which are inconsistent with any provisions of this ordinance are hereby repealed as to the extent of such inconsistencies.

association. The definition of a business entity includes all principals who own 5% or more of the equity in the corporation or business trust, partners, and officers in the aggregate employed by the entity as well as any subsidiaries directly controlled by the business entity.

E. For purpose of this section, the office that is considered to have ultimate responsibility for the award of the contract shall be:

1. The Township of Edison Council and the Mayor of the Township of Edison, if the contract requires approval or appropriation from the Council.

2. The Mayor of Township of Edison, if the contract requires approval of the Mayor, or if a public officer who is responsible for the award of the contract is appointed by the Mayor.

(General Election Referendum, Added, 11/08/2005)

#### **Section 2.81.020 CONTRIBUTIONS MADE PRIOR TO THE EFFECTIVE DATE**

##### **Section 2.81.020 Contributions Made Prior to the Effective Date**

No contribution of money or any other thing of value, including in-kind contributions, made by a professional business entity to any municipal candidate for Mayor or Council, or municipal or county party committee or PAC referenced in this ordinance shall be deemed a violation of this section, nor shall an agreement for property, goods, or services, of any kind whatsoever, be disqualified thereby, if that contribution was made by the professional business entity prior to the effective date of this section.

#### **Section 2.81.030 CONTRIBUTION STATEMENT BY PROFESSIONAL BUSINESS ENTITY**

##### **Section 2.81.030 Contribution Statement by Professional Business Entity**

A. Prior to awarding any contract or agreement to procure professional services, or banking or insurance coverage services or any other consulting services, with any professional business entity, the township or any of its purchasing agents or agencies, as the case may be, shall receive a sworn statement from the professional business entity made under penalty of perjury that the bidder or offer or has not made a contribution in violation of Section 1 of this ordinance.

B. The professional business entity shall have a continuing duty to report any violations of this ordinance that may occur during the negotiation or duration of a contract. The certification required under this subsection shall be made prior to entry into the contract or agreement with the township and shall be in addition to any other certifications that may be required by any other provision of law.

#### **Section 2.81.040 RETURN OF EXCESS CONTRIBUTIONS**

##### **Section 2.81.040 Return of Excess Contributions**

A professional business entity or township candidate or officeholder or municipal or county party committee or PAC referenced in this ordinance may cure a violation of Section 1 of this ordinance, if, within 60 days after the contribution, the professional business entity notifies the Township Council in writing and seeks and receives reimbursement of a contribution from the township candidate or municipal or county political party or PAC referenced in this ordinance.

#### **Section 2.81.050 PENALTY**

##### **Section 2.81.050 Penalty**

A. It shall be a breach of the terms of the Edison Township professional service agreement for a business entity to (i) make or solicit a contribution in violation of this ordinance; (ii) knowingly conceal or misrepresent a contribution given or received; (iii) make or solicit contributions through intermediaries